IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 19561 of 2004

Between:

M/s. Tirumala Music Centre Pvt. Ltd., 16-10-27/105/10, Municipal Colony, Malakpet, Hyderabad, rep. by its Managing Director, N. Amarnath,

S/o. (Late) Raghu Ramulu, Aged 35 Years, R/o. Hyderabad.

..... PETITIONER

AND

Assistant Provident Fund Commissioner (Enforcement),

O/o. Regional Provident Fund Commissioner, Barkatpura, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ of Mandamus or any other appropriate writ and direct the respondent to forbear from resorting to any coercive action for recovery/execution of the demand contained in the order of the respondent in Proc. NO.AP/20892/Enf.C.II/13/2003/1175 dt.05.10.2004 so long as the appeal and stay petition filed by the petitioner in ATA No.820(1)./2004 before the Employees Provident Fund Appellate Tribunal, New Delhi is pending and further direct the said Appellate Tribunal to take up and dispose of the stay petition filed by the petitioner in the said appeal at the earliest and grant such other relief as it deems fit in the circumstances of the case.

Counsel for the Petitioner: MR.V.VENKATARAMANA,Advocate.

Counsel for the Respondent: MR.R.N.REDDY, Standing Counsel

for respondent Corporation.

The Court made the following:

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Oral Order:

Heard both sides.

Against the order dated 31-12-2003 passed by the respondent under Section 7-A of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (for short 'the Act') the petitioner filed review application under Section 7-B of the Act and the respondent by order dated 05-10-2004 reduced the demand amount. Feeling aggrieved by the same petitioner filed an appeal before the Appellate Tribunal. As the Tribunal is not functioning, the petitioner could not obtain any stay pursuant to the demand made by the respondent. Therefore, petitioner moved this Court by way of present writ petition questioning the orders passed by the respondent under Section 7-A and 7-B of the Act.

It is well settled provision that when statutory appeal filed by the petitioner is pending, against the same order writ petition cannot be entertained.

Having regard to the facts and circumstances of the case, on petitioner depositing 50% of the amount so demanded within a period of eight weeks from the date of receipt of a copy of this order, no coercive steps can be taken for recovery pending disposal of the appeal. On such depositing, the appellate authority shall proceed with the same without insisting for deposit of 75% of the demand amount. The amount so deposited shall be subject to the result of the appeal filed by the

petitioner.

With the observation as above, the writ petition is disposed of. No costs.

_____ A.GOPAL REDDY, J.

26-10-2004

Note: Issue CC by tomorrow.

(bo)

Murthy

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. Assistant Provident Fund Commissioner (Enforcement),

O/o. Regional Provident Fund Commissioner, Barkatpura, Hyderabad.

2.Two CD copies.